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In re Application of :
LUSK, Paul D. et al. :
Application No.: 09/673,230 :
PCT Application No.: PCT/US99/07737 :
International Filing Date: 14 April 1999 :
Priority Date: 14 April 1998 :
Attorney Docket No.: 960067.ORI :
For: DINITROTOLUENE (DNT)-FREE :
SINGLE BASE PROPELLANT :

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

This is a decision on applicants' "Response to Notification of Defective Response," filed in the United States Patent and Trademark Office on 22 November 2002.

BACKGROUND

On 14 April 1999, applicants filed international application PCT/US99/07737. A Demand for international preliminary examination was filed 27 October 1999. The thirty month period for entering the national stage in the United States expired at midnight on 16 October 2000 (14 October 2000 was a Saturday).

On 12 October 2000, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 27 October 2000, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required. The notification set a one month extendable period for reply. The application went abandoned on 28 April 2001 for failure to respond to the Notification of Missing Requirements.

On 19 November 2001, applicants submitted an executed declaration and a petition to revive.

On 02 July 2002, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing applicants' petition without prejudice.

On 10 July 2002, applicants submitted "Renewed Petition Under 37 CFR 1.137(b)".

On 23 August 2002, the Office mailed Notification of Defective Response.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (3) and (4) were previously satisfied.

As to item (2), the declaration supplied does not comply with 37 CFR 1.497(a)-(b). The facsimile information on page 4 of the declaration indicates that the inventor was not presented with a complete copy of the declaration to execute. Rather, three pages were sent to the inventor and two were returned. The inventor must be presented with a complete copy of the declaration listing all of the inventors.

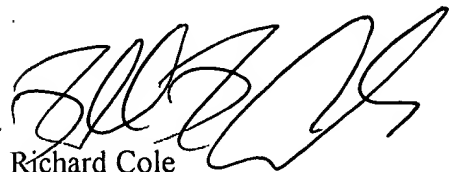
CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **DISMISSED** without prejudice

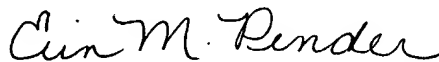
Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

The application remains **ABANDONED**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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